

The CSKT Compact is not a partisan issue and should be considered based on principle not politics

It is unthinkable that the state of Montana with the CSKT Compact will lay the ground work for the federal government with the assistances of Indian tribes to breach the sovereignty of western states over the management of water and the protection of private property. Very disturbing is that the CSKT Compact is gaining momentum through the threat (extortion) of 10,000 claims being filed by the CSKT while the authority of the CSKT and the federal government is being hidden in the 1500 pages of the Compact. Also, the general public is being disarmed by millions of dollars from the CSKT to run a statewide media campaign and make special deals with many of the proponents of the Compact. In my 16 years in the legislature, I have never seen a violation of the balance of power in our state government like the actions of our Governor and Attorney General regarding the Compact. Phone calls and threats to county commissioners and legislators violate their oath of office and the separation of powers as mandated by the federal and state constitutions. Veto authority is a powerful weapon to use on legislators. It is normally used sparingly, but last session over 70 vetoes were issued including the veto of my bill which would have given legislative authority to extend negotiations on the Compact. The Governor and Attorney General decided they were legislators and met with the Tribe to make the project irrigators happy on the Reservation since they had lost their state based water rights in the Compact to the Tribe. The irrigators were given a "water delivery entitlement" which was insignificant because the Tribe still had complete control of their water. Also, irrigators knew that their historic water delivery to irrigators had been cut by 70% and the water moved to instream flow. The Joint Board of Control for the irrigators voted 8 to 2 for a resolution opposing the Compact after negotiation was completed.

Since the legal basis for the off reservation water rights is the Hell Gate Treaty language, there would be no legal basis for the 10,000 claims if the CSKT Compact fails and vice versa. Also, the Montana Constitution states: "All existing rights to the use of any waters for any useful or beneficial purpose are hereby recognized and confirmed" which would include water rights from territorial days when the records were kept locally. The thousands of claims did not work with the Nez Perce Tribe and they will not work with the CSKT. Also, House Bill 427 provides funds, 13 million, to protect these state based water rights from CSKT competing claims through the Office of Public Defender. Although giving up state sovereignty both off and on the Reservation is a major flaw in the Compact there are many other violations; so I will list a few of the big ones:

1. The purpose of the Reservation and the amount of water necessary to fulfill that purpose has not been provided as required to secured Federal Reserved Water Rights.
2. Violates due process of citizens by blocking access to Montana Courts for resolution of water issues.
3. Violates due process by including Kerr Dam and circumventing the Federal Energy Regulatory Commission.
4. \$55 million of Montana taxpayer money given without financial accountability or transparency. Related to this money, in the Compact there is a statement: "In the event that the payments are not needed such as in the event the Flathead Irrigation Project is decommissioned, all invested funds shall be dispersed for the removal and landscape rehabilitation." It is unthinkable that the beautiful Flathead Irrigation Project would fail and Montana would pay for its removal.
5. Exempts the Reservation from many extremely important sections of Montana water code.

Former Senator Verdell Jackson, Kalispell

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